RAILWAY COMPANY *v.* HECK.

Neither the charge of the court below, if no exception was taken thereto before
the final submission of the case to the jury, nor the granting or the refusing
a new trial, is subject to review here.

ERROR to the Circuit Court of the United States for the
Northern District of Illinois.

The facts are stated in the opinion of the court.

Mr E. Walker for the plaintiff in error.

Mr O. B. Sansum, contra.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

It does not appear from this record that any exceptions
were taken in the progress of the trial to what was done by
the court below   Nearly three weeks after the trial was con-
cluded and a verdict rendered, a motion was made for a new
trial, because of certain alleged errors in the charge , but it is
nowhere shown that they were noted or brought to the atten-
tion of the court before the verdict.   Certainly no exceptions
were taken.   A trial court may, in the exercise of its judicial
discretion, grant a new trial, if convinced that its charge was
wrong, even though its attention was not called to the error
complained of before the case was finally submitted to the jury
But not so with us.   Our power is confined to exceptions actu-
ally taken at the trial.   The theory of a bill of exceptions is
that it states what occurred while the trial was going on.   Time
is usually given to put what was done into an appropriate form
for the record , but, unless objection was made and exception
taken before the verdict, no case is presented for a review here
of the rulings at the trial.   This has been settled in this court
since *Walton* v *United States*, 9 Wheat. 651.   The cases are
numerous to that effect.

We have uniformly held that, as a motion for new trial in
the courts of the United States is addressed to the discretion
of the court that tried the cause, the action of that court in
granting or refusing to grant such a motion cannot be assigned
for error here.   *Schuchardt* v *Allens*, 1 Wall. 359 , *Insurance
Company* v *Barton*, 13 id. 603.

Judgment affirmed.